

**REMARKS**

Claims 2-15, 20-34, 39-53 and 96-99 are pending in this application and all are rejected.

**Rejection Under 35 U.S.C. § 103(a) of Independent Claim 96**

The Examiner rejects **claims 6-11, 20, 25-34, 39, 44-53 and 96-99** under 35 U.S.C. § 103(a) as unpatentable over Huang et al. (U.S. 6,151,582) in view of Silva-Risso (A Decision Support System for Planning Manufacturers' Sales Promotion Calendars).

**Claim 96**

**Independent claim 96** includes the limitations:

*A computer-implemented method of generating reports from forecasted unit inventory and unit sales on a bottom-up per-store basis for a multitude of items at a plurality of stores, including:*

*unifying treatment of promotion and non-promotion events that impact demand across the items and the stores and that impact particular items at particular stores by tracking a plurality of promotion events and a plurality of non-promotion events with a unified causal event calendar,*

*which said causal event calendar is a data structure stored in computer readable memory, wherein an event data tuple for an event in the causal event calendar includes at least a good identifier, a store identifier, a start date, a stop date and an event type identifier;*

*forecasting unit inventory and unit sales at a per-item, per-store level using the causal event calendar, by identifying one or more events applicable to an item-store pair and using the event type identifiers for the applicable events to automatically select a demand modifiers that correspond to demand impacts caused by the events; and*

*generating, from results of the forecasting using the causal event calendar consistently across analytical tools, analytical reports for ordering, distributing, and bottom-up planning prepared using at least some of the per-item, per-store level event detail from the causal event calendar.*

These limitations are not found in Huang in view of Silva-Risso.

Applicants incorporate by reference their prior discussions of Huang and focus here on the new reference, Silva-Risso. The Examiner relies on Silva-Risso as follows. "Silva-Risso discloses store identifiers and causal calendars shows both promotion and non-promotion events." OA at 7. That is, the Examiner appears to interpret the new reference as applying per-store to item-store pairs of goods and as applying to non-

promotion events, as well as promotional pricing. This interpretation of Silva-Rissio is contrary to the words used in the reference.

Silva-Rissio is an exploratory study of cross-elasticity applied to canned tomato sauce and promotional pricing at a brand level by a manufacturer to a large supermarket chain. The reference says that it applies per retail account, and does not suggest that the optimal promotion analysis would ever be applied per store. The reference says in the Abstract (274) and the first paragraph of the Introduction section (275) that manufacturer's promotion optimization is being executed "at the level of individual retail accounts and brand SKUs." In the context of a manufacturer applying the math disclosed, it is clear that an individual retail account would be Safeway, Giants, Krogers or some other large supermarket chain. Nothing in the reference suggests application to individual stores.

It would be contrary to common sense to apply Silva-Rissio to individual stores, because the model calibration is performed for a "large supermarket chain." *Id.* at 285-86. The calibration was, in fact, limited to canned tomato sauce (274, last line) price reductions (286, paragraph following n.7) by the manufacturer that the manufacturer expected for the large supermarket chain to pass through to consumers at an 80 percent rate. (286 n. 7) Common sense would never lead one to try and run this computationally intensive effort on a store-by-store basis. Common sense would not lead a manufacturer to negotiate with a retail account on a store-by-store basis. Therefore, the individual retail account study in Silva-Rissio is not a basis for finding obviousness of a causal event calendar applied at a store-item detail level.

Silva-Rissio does not apply to individual items either. The study is on a "brand SKU" basis, which is a higher level than item SKUs. Canned tomato sauce is sold in several sizes. The "brand SKU" covers the range of sizes. Common sense would never lead one to run this computationally intensive effort with distinctions between 8 and 24 ounce cans of tomato sauce. Common sense would not lead a manufacturer to negotiate separate promotional calendars with a supermarket chain for 8 and 24 ounce cans of the same brand tomato sauce. Therefore, the "brand SKU" analysis in Silva-Rissio is not a basis for finding obviousness of a causal event calendar applied to hundreds or thousands of individual items at individual stores.

Finally, Silva-Rissio does not apply to non-promotional events. First, the article refers to “decisions [that] collectively make up what is known as a *sales promotion calendar*”. (275, first paragraph) The name sales promotion calendar is italicized in the reference. Second, the only factor for which the model was calibrated was promotional price reductions. (286, paragraph following n. 7) While the model is capable of addressing two additional promotional event types for featuring the product and bringing in a custom display (*id.*), the manufacturer dissuaded the researchers from including these promotional event types for the canned tomato sauce. The entire teaching of Silva-Rissio is to optimize price promotions.

The calendar in Silva-Rissio figure 5 does not stray from optimizing price promotions. The promotional events shown on the calendar are a competitor's anticipated calendar of price promotions and the manufacturer's optimized price promotion calendar. There are no exogenous, non-promotional events (see claim 97) identified by type on the calendar in figure 5, only manufacturers' price promotions.

Because the elements of claim 96 that the Examiner thinks are in the secondary reference are not really in Silva-Risso, claim 96 should be allowable over the art of record.

#### **Dependent claims**

The dependent claims should be allowable over the art of record for at least the same reasons as claim 96, from which they depend.

#### **CONCLUSION**

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims as now stated.

Applicants would welcome an interview, if the Examiner is so inclined. The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

***Fee Authorization.*** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-0869 (BLFR 1003-1).

Respectfully submitted,

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